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San Juan, P.R. 00918-1767

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U.S. DISTRICT COURT  
SAN JUAN, P.R.

## Objection to the Disclosure Statement

Submitted by PV Properties, Inc. represented by its President, Mr. Victor Luis Gonzalez.

The Disclosure Statement doesn't properly address Puerto Rico public policy regarding energy and the environmental attributes associated with the generation of electricity using renewable energy.

Acts:

Act 114-2007 "Puerto Rico Net Metering Program Act"

Act 82-2010 "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act"

Act 83-2010 "Green Energy Incentive Act of Puerto Rico"

Act 57-2014 "The Puerto Rico Energy Transformation and RELIEF Act"

Act 17-2019 "Puerto Rico Energy Public Policy Act"

### Basis and nature of the objection.

Preliminary Statement:

Since 2015, PREPA has refused to purchase from distributed generation Prosumers the RECs generated and self-consumed, **RECS Self-Consumed**, and the RECs generated and exported to the Grid, **RECS Exported to the Grid**.

TABLE A: RECs generated by Distributed Generation Prosumers

**RECs Generated by Distributed Generation Prosumers**

	kWh	kWh	kWh	\$	\$	\$	kWh	%
Year	Exported	estimated (capacity x 1500)	Self- Consumed	Exported	Self- Consumed	Total	Required Renewable Energy	Compliance with Required
2015	31,528,578	69,011,500	37,482,922	\$ 1,103,500	\$ 1,311,902	\$ 2,415,403	3,447,053,714	2.00%
2016	50,496,936	107,547,259	57,050,323	\$ 1,767,393	\$ 1,996,761	\$ 3,764,154	3,462,211,225	3.11%
2017	56,164,767	138,743,107	82,578,340	\$ 1,965,767	\$ 2,890,242	\$ 4,856,009	2,711,656,396	5.12%
2018	75,601,900	185,503,755	109,901,855	\$ 2,646,067	\$ 3,846,565	\$ 6,492,631	3,274,833,384	5.66%
2019	90,086,127	221,046,071	130,959,944	\$ 3,153,014	\$ 4,583,598	\$ 7,736,612	3,215,454,655	6.87%
2020	110,427,792	250,729,725	140,301,933	\$ 3,864,973	\$ 4,910,568	\$ 8,775,540	3,207,058,855	7.82%
2021	161,687,299	303,960,214	142,272,915	\$ 5,659,055	\$ 4,979,552	\$ 10,638,607	3,253,883,280	9.34%
2022	196,920,963	321,633,750	124,712,787	\$ 6,892,234	\$ 4,364,948	\$ 11,257,181	2,406,061,063	13.37%
Total	772,914,361	1,598,175,382	825,261,020	\$ 27,052,003	\$ 28,884,136	\$ 55,936,138	24,978,212,573	6.40%

PREPA data up to September 30, 2022 is taken from **22.10.26\_Anejo-2-Datos NEPR-MI-2019-0016**

TABLE B: RECs Generated by PV Properties, Inc.

**RECs Generated by PV Properties, Inc**

	kWh	\$	\$	\$	kWh	kWh	kWh
YEAR	generated	Exported	Sold-Consumed	Total	PREPA Required for RPS compliance	PREPA reported for RPS compliance	PREPA RPS shortfall
2015	10,826,247	\$ 151,567	\$ 227,351	\$ 378,919	3,447,053,714	365,090,480	3,081,963,234
2016	19,151,309	\$ 268,118	\$ 402,177	\$ 670,296	3,462,211,225	368,380,898	3,093,830,327
2017	16,484,387	\$ 230,781	\$ 346,172	\$ 576,954	2,711,656,396	375,245,704	2,336,410,692
2018	19,074,306	\$ 267,040	\$ 400,560	\$ 667,601	3,274,833,384	275,061,564	2,999,771,820
2019	21,278,556	\$ 297,900	\$ 446,850	\$ 744,749	3,215,454,655	506,120,025	2,709,334,630
2020	19,059,453	\$ 266,832	\$ 400,249	\$ 667,081	3,207,058,855	521,772,011	2,685,286,844
2021	22,515,159	\$ 315,212	\$ 472,818	\$ 788,031	3,253,883,280	613,980,860	2,639,902,421
2022	23,460,966	\$ 328,454	\$ 492,680	\$ 821,134	2,406,061,063	536,485,453	1,869,575,611
TOTAL	151,850,382	\$ 2,125,905	\$ 3,188,858	\$ 5,314,763	24,978,212,573	3,562,136,994	21,416,075,579

PREPA data from 22.1026\_Anejo-2-Datos NEPR-MI-2019-0016 up to September 30, 2022

RECs are valued at \$35 per REC (1,000 kWh)

**CLAIM:**

PV Properties, Inc. claim, up to December 31, 2022, is for five million three hundred fourteen thousand seven hundred and sixty-three dollars (\$5,314,763).



**Proposed modification to the Disclosure Statement suggested language:**

**Net Meter-** Means a tool used to measure and register the two-way flow of power (bidirectional), that is, supplied and received energy in kilowatt-hour by a customer who has a distributed generation system interconnected to the power grid of PREPA.

**Net Metering Contracts-** Any customer that, on the date in which the Bureau issues its final determination, has a net metering contract or has notified the Bureau about the certification of the distributed generator. In such cases, the Net Meter customer shall have the right to the rate or compensation mechanism in effect at the time for a term of not less than twenty (20) years as of the execution of the net metering contract.

**Grandfather Customers-** Means Prosumers with Net Metering Contracts in effect as of the date of approval of the Energy Public Policy Act. To whom — Pursuant to the Authority or transmission and distribution network Contractor shall honor Net Metering Contracts in effect as of the date of approval of this Act in accordance with the agreed-upon terms.

**Renewable Portfolio Standard, "RPS"-** Means the mandatory percentage of sustainable renewable energy or alternative renewable energy required from each retail electricity supplier as established

**Renewable Energy Credits, "REC"-** Means a personal property that constitutes a tradeable and negotiable asset or commodity that may be purchased, sold, assigned, and transferred between persons for any lawful purpose, which is integrally and inseparably equal to one (1) megawatt-hour (MWh) of electricity generated from a sustainable renewable energy source or alternative renewable energy source in Puerto Rico issued and registered pursuant to Act 82-2010 and, in turn, represents all environmental and social attributes, as defined in this Act.

**RECs Self-Consumed-** Means a REC that is generated from a renewable energy source and consumed behind the meter.

**RECs Exported to the Grid-** Means a REC that is generated from a renewable energy source and is exported to the grid under a Net Metering Contract.

**Renewables Registry-** Means the North American Renewables Registry (NAR), which administers a Web-based platform to issue serialized Renewable Energy Certificates (RECs), for sustainable renewable energy and alternative renewable energy sources where registered sources may create and manage their individual accounts, and quantifying and transferring RECs, or any other registry established or authorized by the Commission for accounting and transferring RECs in Puerto Rico.

**Prosumer-** Means any users or customers of the Electrical System who have the capacity to generate electric power for self-consumption that, in turn, have the capacity to supply any energy surplus through the electric power grid.

## Language:

Act 17 of 2019 mandates that after 2024, the rate applicable to Net Meter customers, including the rate or mechanisms through which customers shall be compensated for the energy they supply to the electric power grid, shall be determined exclusively by the Energy Bureau as part of the electric power service rate review process provided in Act No. 57-2014, or through a separate administrative process when deemed necessary or convenient.

To attest compliance with Section 2.3.(e) of Act 17-2019, the Puerto Rico Energy Public Policy Act, the amount of distributed renewable energy generated by Prosumers shall be measured and there shall be access to the Registry of Renewable Energy Certificates.

PREPA has to comply with the RPS by filling with the Bureau the RECs it acquired.<sup>1</sup>

The Renewable Energy Policy Act mandates, among other things, that retail electricity suppliers in Puerto Rico, like PREPA, comply with a Renewable Portfolio Standard ("RPS") that requires specified percentages of their energy production come from renewable energy sources, escalating over time to twenty percent (20%) by 2022, subject to important qualifications. Act 82-2010; 22 L.P.R.A. § 8124.

PREPA has not purchased RECs from any Distributed Generator.

In October 2021, PREB issued a draft regulation for comments, but the draft regulation has not progressed since that time. (NEPR-MI-2021-0011)

The draft proposes the following:

a. that the minimum value of the RECs will be the result of the multiplication of the market cost of a metric ton of CO<sub>2</sub>e by the CO<sub>2</sub>e emission factor of the electricity generators that use fossil fuels;

b. that non-compliance is subject to a penalty equal to double the minimum value; and

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<sup>1</sup> "Section 2.10.- Renewable Portfolio Standard Compliance.

(a) Any retail electricity supplier shall comply with the Renewable Portfolio Standard herein created, upon filing with the Bureau any of the following or combination thereof:

(i) A REC issued and registered in the renewables registry in favor of the retail electricity supplier for each megawatt-hour (MWh) of electric power generated from sustainable renewable energy sources or alternative renewable energy sources in Puerto Rico, and/or (ii) In the case of a retail electricity supplier, that quantifies the electricity generated by or purchased from distributed renewable energy producers located in Puerto Rico through a net metering program, and whenever it is not feasible to obtain RECs that represent such electricity, a report evidencing that the retail electricity supplier has complied with the Renewable Portfolio Standard through the purchase of renewable energy together with all environmental and social attributes related to the production of such energy, pursuant to subsection (e) of this Section.

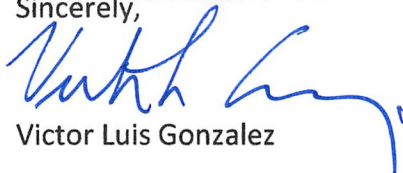
(iii) All RECs including distributed renewable energy and those of net metering customers, may be acquired by a retail electricity supplier for purposes of complying with the Renewable Portfolio Standard, or by other buyers for any legal purpose.

c. that ownership of the RECs belongs to the REC generator until it is legally transferred.

Prosumers with Net Metering Contracts generate **RECs Self-Consumed** and **RECs Exported to the Grid**. PREPA's revenue grade meters register the **RECs Exported to the Grid**. The Prosumer inverter and meter register both the **RECs Self-Consumed** and the **RECs Exported to the Grid**. ACT 82-2010 as amended gives title to both types of RECs to the generator, therefore the **RECs Exported to the Grid** included in PREPA's RPS compliance reports must be purchased from the Prosumer.

In summary, the Disclosure Statement is not based, nor does it recognize the legal framework with which PREPA must operate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victor L. Gonzalez", with a stylized flourish at the end.

Victor Luis Gonzalez